

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JAMES GRASS,

Plaintiff,

v.

No. 1:19-cv-00983-WJ-SCY

MANNY GONZALES, et al.,

Defendants.

**MEMORANDUM OPINION AND ORDER
DENYING PENDING MOTIONS**

THIS MATTER comes before the Court on Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs, Doc. 3, filed October 18, 2019, Plaintiff's Motion for an Order of Protection, Doc. 8, filed December 4, 2019, Plaintiff's Motion to Dismiss Without Prejudice, Doc. 9, filed December 19, 2019, and Plaintiff's Motion for Declaratory and Injunctive Relief and Emergent [sic] Hearing to Correct the Record of Deputy Sherfy, Doc. 10, filed March 2, 2020.

Plaintiff's Second Amended Complaint seeks records from Defendants pursuant to the Freedom of Information Act, 5 U.S.C. §552 *et seq.* *See* Doc. 7, filed November 14, 2019. Plaintiff, who is proceeding *pro se*, subsequently filed his Motion to Dismiss Without Prejudice stating: "The Petitioner is convinced beyond any reasonable doubt the veil of this Court's authority has fascinated individuals and/or agenc[ies] to comply with the law." Motion to Dismiss at 1. Plaintiff also states he "cannot in good consc[ience] continue to pursue information that would at most be academic at this time." Motion to Dismiss at 1.

The Court denies Plaintiff's Motion to Dismiss as moot. Rule 41 states that a "plaintiff may dismiss an action without a court order by filing ... a notice of dismissal before the opposing

party serves either an answer or motion for summary judgment.” Fed. R. Civ. Pl. 41(a)(1)(A)(i). Plaintiff’s Motion to Dismiss gives notice of voluntary dismissal and none of the opposing Parties have filed an answer or a motion to dismiss. Consequently, Plaintiff has voluntarily dismissed this action without a court order.

Because Plaintiff has voluntarily dismissed this case, the Court denies the pending motions as moot.

IT IS ORDERED that:

- (i) Plaintiff’s Application to Proceed in District Court Without Prepaying Fees or Costs, Doc. 3, filed October 18, 2019, is **DENIED as moot**.
- (ii) Plaintiff’s Motion for an Order of Protection, Doc. 8, filed December 4, 2019, is **DENIED as moot**.
- (iii) Plaintiff’s Motion to Dismiss Without Prejudice, Doc. 9, filed December 19, 2019, is **DENIED as moot**.
- (iv) Plaintiff’s Motion for Declaratory and Injunctive Relief and Emergent [sic] Hearing to Correct the Record of Deputy Sherfy, Doc. 10, filed March 2, 2020, is **DENIED as moot**.
- (v) The Clerk shall close this case effective December 19, 2019, the date Plaintiff filed his Motion to Dismiss Without Prejudice.



WILLIAM P. JOHNSON
CHIEF UNITED STATES DISTRICT JUDGE